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FLEXITIME EXTENDED—Congress has approved and President Reagan has signed into law a temporary, stopgap measure extending the government's flexitime program for another 30 days to Oct. 31.

Meanwhile, the bill's sponsors are still trying to work out an accommodation with Sen. Orrin Hatch, R-Utah, to get approval of the bill that would make the flexitime program permanent. Hatch has been holding up action on the bill because of his insistence on attaching the controversial amendment that would waive the minimum wage for teen-age workers in the private sector.

OAKAR HEALTH BENEFITS PLAN CLEARS HOUSE—The House has passed a bill that would in some cases reduce a federal employee's health premium cost to zero in 1988.

Introduced by Rep. Mary Rose Oakar, D-Ohio, chairwoman of the House Subcommittee on Compensation and Employee Benefits, the bill now goes to the Senate for consideration.

The measure (HR-3384) would allow the government to pay all of a health premium if it did not exceed the average premium of the six largest plans under the federal employees health benefit program. Currently, the government may pay no more than 75 percent of an employee's share of the premiums, regardless of whether the total premium (employee and government shares combined) is less than the average premium of the top six plans, which is about 61 percent.

While employees in lower cost plans would benefit from larger government contributions, those whose total premiums were less than the maximum allowable government contribution would pay nothing at all.

The Reagan administration always has supported elimination of the 75 percent premium limit, believing that this would encourage employees to shift to the cheaper plans.

(The budget reconciliation package passed recently by the House Post Office and Civil Service Committee would lift the 75 percent cap for 1986 and 1987, as well.)

HR-3384 also would enable retirees to receive rebates offered by some 12 FEHBP carriers, and require the Office of Personnel Management to conduct an "open season" before the start of any contract year in which a new FEHBP plan is offered or an existing plan changes rates, coverage or withdraws from the program.

PAYDAYS ASSURED—Congress has approved legislation that will extend government spending authority for another 45 days, thereby assuring government workers their regular paychecks through Nov. 14. Unlike previous years which saw deadline-defying showdowns which sometimes caused scattered furloughs and payroll delays, Congress this time enacted the continuing resolution without any fuss. Another spending authority bill will be required by Nov. 14. In the meantime, Congress must approve legislation within the next few weeks to raise the federal debt ceiling to $2 trillion.

CARLIN OFF THE ROPES—Postmaster General Paul Carlin may have saved his job by the savings achieved by the U.S. Postal Service in recent months. Carlin had been under fire by some of the USPS's board of governors over the postal service's deteriorating financial condition.

But Carlin has reported substantial savings stemming from a cut in overtime work and other economies, resulting in a surplus of $7.2 million during the most recent accounting period, rather than the $79 million deficit that had been projected. Carlin said he was "cautiously optimistic" that the Postal Service can break even in fiscal year 1986. Because of this rosy outlook, Carlin has ended pay cuts he and 30 top officials took in July and announced a 3.2 percent pay raise for 700 other postal managers.

PAY-FOR-PERFORMANCE WAITING GAME CONTINUES—New Office of Personnel Management rules, that attach more weight to performance and less to seniority in deciding retention during reductions-in-force, remain virtually in limbo.

OPM director Constance Horner has told agencies with RIFs in progress that they may choose between the new RIF system or the old one (which gives far more weight to seniority) and has given permission to all other agencies to wait until January to adopt the new rules. She is waiting to see what Congress does about the rules before making them mandatory. Some congressional critics believe the rules go too far in discounting seniority.

The House included a new ban on the rules in its recently-approved treasury and postal appropriations measure. And, the National Treasury Employees Union has just filed suit in federal court seeking to force OPM to drop the rules on the grounds they are "illegal, unfair and unconstitutional."

Meanwhile, a federal district judge in Washington, D.C. has dismissed a suit by the American Federation of Government Employees claiming the rules were issued improperly in July. The union is appealing the ruling, which also could affect the slightly revised version of the regs issued in August.

NO GUARANTEES—The Senate Governmental Affairs Committee, rejecting a precedent set by its House counterpart, has declined to promise white collar federal employees pay raises in fiscal years 1987 and 1988. By a 7-5 vote, the committee rejected language offered by Sen. Thomas Eagleton, D-Mo., that would have guaranteed raises of at least five percent in each of those years to follow the pay freeze already approved for 1986. The recent House-Senate budget compromise assumes raises of 3.8 and 4.7 percent in those years.

In other action on the overall budget bill, the committee voted to make permanent the 2,087-hour workyear and the Jan. 1 effective date of future general schedule raises. The House merely would extend for three years the changes from a 2,080-hour year and from the previous Oct. 1 effective date of raises.

Like the House civil service panel, the Senate committee voted to require that $1.1 billion in surplus reserves held by federal health carriers be retained by the government and set aside for the program. But the Senate panel did not address the issue of the government's contribution to an employee's health premium. The House panel proposed that the maximum government share be raised from 60 percent to 75 percent of its average share in the six largest carriers.

The "budget reconciliation" bills now move to floor votes in both chambers before differences can be ironed out in conference.

STEVENS MOVING SMOKING BILL—Sen. Ted Stevens, R-Alaska, hopes to move his bill (S-1440) to allow smoking in federal buildings only in designated areas to a Senate floor vote before the November congressional recess. But little interest has materialized in the House and the plan's prospects there are uncertain.

At hearings last week before Stevens' civil service subcommittee, the plan drew support from administration witnesses, including Terrence Golden, head of the General Services Administration. Physicians and anti-smoking advocates discussed numerous studies that have found that breathing smoke second-hand is hazardous.

The major opposition came from the Tobacco Institute, which claimed that the bill would cost the government millions of dollars in office redesigns and lost productivity as smokers went to designated areas to light up. Stevens asserted, however, that costs could be offset by reduced sick leave among non-smokers. And he believes the government now is vulnerable to costly lawsuits by federal non-smokers—or their survivors—for failing to provide a healthy workplace.

FOR OUR WASHINGTON D.C. AREA READERS—Mike Causey, federal columnist for the *Washington Post*, has a new call-in radio program on federal employment matters. His show—Federal Forum—is broadcast every Saturday from 1 to 2 p.m., on WNTR radio, 1050-AM.

ICC'S FURLOUGH RULED LEGAL—In a significant ruling, the U.S. Comptroller General has said that the Interstate Commerce Commission broke no law or regulation when it furloughed its employees earlier this year to cope with an unexpected cut in temporary operating funds.

The CG was responding to a congressional request on the legality of ICC's decision to force its employees to stay home one day per week, which amounted to a 20 percent cut in pay. It has since cancelled the furlough.

While the ICC could possibly have acted to lessen its severity, furloughing appeared "preferable" to other available options that included laying off workers, the CG said. He added that ICC did not violate provisions of the Antideficiency Act, either, which requires agencies to avoid exhausting their funds before the end of the appropriation period.

Finally, he said that agencies have "broad authority to furlough any and all of their employees if there are legitimate management reasons for doing so."

(CG No. B-218800, Aug. 2, 1985.)

CONGRESS ENCOURAGES DAY CARE CENTERS—The Senate and House as part of the fiscal 1986 Treasury, Post Office, General Government appropriations bill have approved provisions making it easier for federal agencies to make low-cost day care facilities available to employees' children. They were sponsored by Sen. Paul Trible, R-Va. and Rep. Frank Wolf, R-Va.

Agencies with extra space could make it available rent-free for use as a day care facility. The government now grants rent-free space when available to credit unions and cafeterias.

The day care centers would greatly benefit low-income employees who don't have the money for special pre-schools or sitters for their children.

Also approved in the bill is an amendment by Sen. John Warner, R-Va., to extend relocation assistance now available to career civil service employees to presidential appointees and new appointees to the Senior Executive Service. It also would provide the same relocation assistance provided in domestic moves to the departure and return of federal employees assigned overseas.

THREE STRIKES, HE'S OUT—The so-called "rule of three" in civil service hiring does not conflict with veterans preference rights, the U.S. Court of Appeals for the Federal Circuit has decided. The rule says that when a person eligible for hiring has been considered three times but not chosen, he can be dropped from further consideration.

Raymond G. Lackhouse said his veterans placement rights were violated when the IRS dropped him from a hiring register after considering him for three positions. But the court noted that the veterans law only bars passing over a preference eligible applicant in favor of a lower ranked non-preference applicant. Since that didn't happen to Lackhouse, the court approved the IRS decision.

(Raymond G. Lackhouse v. Merit Systems Protection Board, 85-2141, Sept. 23, 1985)

BREAK-IN-SERVICE CLAUSE FOR LAW OFFICERS UPHELD—A federal court of appeals has given its blessing to a rule restricting early retirement eligibility for federal law enforcement supervisors.

Officers who become supervisors can become eligible for early retirement after only 20 years of service, just like those who remain line officers—but not if there is a break in service of more than three days or if the person takes a job outside the law enforcement field between the two jobs.

A former Immigration and Naturalization Service investigator whose application for an early pension was denied challenged the rule, asserting that it thwarts the early retirement program's goal of keeping the workforce young. But the court stressed that another objective "was to encourage people to make a career of federal law enforcement work."

(Fred T. Morgan v. Office of Personnel Management, U.S. Court of Appeals for the Federal Circuit, No. 84-1584, Sept. 5, 1985)

GOVT. MUST DEFEND CLASSIFICATION DECISIONS IN DISPUTES, COURT RULES—The Office of Personnel Management and agencies are required to state specific reasons for denying an employee's formal request for a job classification change, a federal court has ruled.

When a federal employee "can point to other employees who are doing the same work but receiving more pay, he has a right to complain under the (Classification) Act," and when he does "it is not enough for the agency or OPM to merely cite the abstract definitions in the relevant regulations," the court said.

The Office of Personnel Management and its predecessor, the Civil Service Commission, generally has resisted position-to-position comparisons on the grounds it would lead to classification havoc.

The issue arose when a group of white collar workers requested conversion to the blue collar wage system. The court dismissed their subsequent suit on technical grounds, but reminded OPM of its obligation to conduct such comparisons to help settle classification disputes.

(*American Federation of Government Employees, et al. v. Horner, U.S. District Court for the District of Columbia Case No. 81-2210, Aug. 15, 1985.*)

SHOULD HAVE KNOWN BETTER—An IRS agent deserves to be demoted one grade for being late in paying taxes of a family business in which she is a partner, a federal appeals court has decided.

H. Arlene Moncrief admitted to 27 specifications relating to late payments and late filing of forms but claimed that her husband was responsible—even though she signed the forms. The court, though, said it was proper to downgrade her under an IRS rule that says "it is imperative that our employees comply fully" with tax codes.

(*H. Arlene Moncrief v. Department of the Treasury, U.S. Court of Appeals for the Federal Circuit, 85-2188, Sept. 16, 1985*)

SENATE PANEL APPROVES POST-1983 EMPLOYEE RETIREMENT BILL—The Senate Governmental Affairs Committee unanimously has approved legislation that would create a new, permanent retirement system for federal and postal employees hired since 1983.

The bill, which now goes to the full Senate for a vote, would give employees hired before 1984 three options and those who came on board after 1983 two ways to go in joining the new system. Employees under the old civil service retirement system would be able to: (A) stay in it without change, (B) contribute nothing toward their civil service retirement but be required to wait until age 62 to retire to get full benefits or (C) contribute 1.3 percent of their salaries to the pension fund and retire on unreduced benefits at age 55 after 30 years federal service. Post-1983 employees (who have been under a temporary retirement system) would have their choices of (B) and (C) above. Those joining the new plans would pay the full Social Security tax of 7.05 percent.

The proposed new plans include a thrift feature which allows workers to shelter some income from taxes (with partially matching federal contributions). Option (B) would allow employees to contribute up to 10 percent of salary to the plan with the government adding up to five percent, while under option (C) the government would match employee contributions dollar-for-dollar on the first one percent of salary, then 50 cents on the dollar to 3 percent of salary, and then 25 cents on the dollar up to 6 percent of salary.

Both plans also would base future benefits on the highest five years of salary (rather than the high three) and COLAs would be limited.

The House is poised to come up with a plan of its own in quick order, aides say. But there is plenty of horse-trading ahead. If the new system is not approved by the end of the year, the temporary system must be extended or employees under that system will be forced to contribute slightly more than 14 percent of salary toward retirement.

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